

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SMARTSKY NETWORKS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WIRELESS SYSTEMS SOLUTIONS,	)	No. 1:20-cv-00834-NCT-LPA
LLC; DAG WIRELESS LTD; DAG	)	
WIRELESS USA, LLC; LASLO	)	
GROSS; SUSAN GROSS; and DAVID	)	
D. GROSS,	)	
	)	
Defendants.	)	

**MOTION TO DISMISS OR, ALTERNATIVELY, STAY**

Defendants Wireless Systems Solutions, LLC (“WSS”), Laslo Gross and Susan Gross, through counsel and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure; 28 U.S.C. § 1367; the doctrine established by *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976); 9 U.S.C. § 3; and Local Rule 7.3, and move to dismiss or, alternatively, stay, Plaintiff’s Complaint.

First, Plaintiff fails to allege sufficiently its trade secrets claims, including its claim arising under the Defend Trade Secrets Act (“DTSA”), 18 U.S.C. 1836 *et seq.*, which provides the sole basis for this Court’s original subject matter jurisdiction over this action. The Court should decline to exercise supplemental jurisdiction over the remaining claims after the DTSA claim is dismissed. 28 U.S.C. § 1367. Second, the Court should, alternatively, decline to exercise subject matter jurisdiction over this action because longstanding principles that “rest on considerations of wise judicial

administration, giving regard to conservation of judicial resources and comprehensive disposition of litigation” counsel strongly against maintaining three separate parallel actions concerning the same contracts, the same facts, and the same parties, *Colorado River*, 424 U.S. at 817 (internal quotation marks omitted). Third, pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, the Court should alternatively stay many, if not all, of the claims in this action pending resolution of the arbitration that Plaintiff Smartsky Networks, LLC itself commenced. 9 U.S.C. § 3.

Pursuant to Local Rule 7.3(a), the specific arguments and authorities in support of this Motion are set forth in the accompanying Memorandum of Law.

This the 13th day of October 2020.

/s/ Jessica Thaller-Moran  
David W. Sar  
N.C. State Bar No. 23533  
dsar@brookspierce.com  
D.J. O'Brien  
N.C. State Bar No. 35481  
dobrien@brookspierce.com  
Jessica Thaller-Moran  
N.C. State Bar No. 46444  
BROOKS, PIERCE, MCLENDON,  
HUMPHREY & LEONARD, LLP  
2000 Renaissance Plaza  
230 North Elm Street  
Greensboro, NC 27401  
Tel. (336) 373-8850  
Fax (336) 378-1001

*Attorneys for Defendants  
Wireless Systems Solutions, LLC,  
Laslo Gross and Susan Gross*